

Remarks

Points 1-3 of Action: Claims 32, 39-41, 50-52 and 54-56 are rejected under 35 USC § 102(b) as being anticipated by Brown et al. '839.

Applicant respectfully traverses, and submits that the Examiner relies upon an improper theory of inherency, and that the Examiner has improperly interpreted the claims and the relied-upon reference.

Independent claim 32 specifies:

A wheeled structure, comprising:
a body having at least first and second side portions;
first and second sets of wheel elements rotatably attached to the first and second side portions, respectively;
a tail element pivotally coupled to a portion of the body, the tail element being pivotally coupled to a portion of the body via an articulation element; and
a drive module coupled to the tail element to control the movement of the tail element between a first, stowed position and a second position where said tail element can make selective contact with a ground plane,
wherein each first and second set of wheel elements is arrayed with a selected degree of rocker of the wheel elements coupled to the body, to enable the wheeled structure to turn-in-place.

The Examiner's Response to Arguments (Action of Feb. 22, 2005) indicates that:

Applicant's arguments filed 12/9/04 have been fully considered but they are not persuasive. Brown as stated above is considered readable on the instant claims as broadly read as now claimed, such that Brown does disclose a wheeled structure having an array of wheel elements that have a selected degree of rocker of the wheel elements coupled to the body which would enable the wheeled structure to turn-in-place (column 2, line 57-58) and wherein an intermediate wheel element is capable of contacting the ground with a first and a second wheel element being selectively in contact with the ground as broadly claimed.

Column 2, line 57-58 of Brown et al. are a single sentence: "[i]n normal travel, at least one wheel 41 is on the ground." The Examiner appears to essentially assert that one or more of the wheels 41 and/or the wheel 17 of Brown et al., considered in view of this single sentence, amounts to anticipation of the language "each first and second set of wheel elements is arrayed with a selected degree of rocker of the wheel elements coupled to the body, to enable the wheeled structure to turn-in-place," and of the claim as a whole.

Applicant submits that the detailed language of claim 32 as a whole cannot reasonably be considered to be anticipated by or suggested by the actual structure of Brown et al., even considering the sentence "[i]n normal travel, at least one wheel 41 is on the ground" (column 2, line 57-58 of Brown et al.).

First, Applicant submits that Brown et al. lacks express disclosure of "each first and second set of wheel elements is arrayed with a selected degree of rocker of the wheel elements coupled to the body, to enable the wheeled structure to turn-in-place." The Examiner has not provided a configuration of Brown's wheels 41-41-41 and 17 that would be enabled to turn-in-place as part of the recited structure. Accordingly, the Examiner has only asserted that in indeterminate circumstances, Brown et al. would be inherently capable of turning-in-place by unspecified means. "The mere fact that certain thing may result from a given set of circumstances is not sufficient." MPEP 2112 Requirements of a Rejection Based on Inherency. The rejection therefore appears to be based upon an improper assertion of inherency.

Further, pursuant to MPEP 2111, Claim Interpretation: Broadest Reasonable Interpretation, most claim terms are properly interpreted, in the broadest reasonable interpretation, using the plain meaning of those terms. The plain meaning of claim terms such as "arrayed," "wheel elements," "selected degree," "rocker," "enable," "wheeled structure," and "turn-in-place" would be the ordinary and customary meaning given to such terms by those of ordinary skill in the art. MPEP 2111.01, Sections I & II.

As only one example, the plain and ordinary meaning of a "selected degree of rocker" defines a structure which will tend to "rock", e.g., in the manner of a rocking horse, forward and backward. The Examiner is respectfully directed to pertinent definitions of "rock," one example being included with this Response. (The American Heritage® Dictionary of the English Language: Fourth Edition, 2000; see also use of "rocker" in vehicle, canoe, ski design). Brown et. al.'s planetary wheel assembly 41-41-41, even combined with front wheel 17, is not disclosed to have rocker in this manner, but is either stable on level ground or permits the wheel assembly 41-41-41 to overturn at obstacles such as stairs. Neither stable rolling nor rotation and/or overturning of the wheel assembly 41-41-41 of Brown et al. can reasonably be said to be a disclosure of "rocker." Moreover, there is no "selected degree" of the same disclosed in Brown et al.

Applicants submit that, properly interpreted under MPEP 2111, the claim language of claim 32 has little in common with the structure disclosed in Brown et al. Applicant therefore submit that the Examiner's interpretation of both the claim language and the structure and operation of the Brown et al. reference is improper.

Properly interpreted, the detailed structure recited in claim 32 may additionally give rise to a further advantage of reducing frictional losses when the platform is traversing smooth terrain and surfaces (See p. 32 of the specification). The differences between the structure of claim 32 and Brown et al.'s structure are further highlighted by the fact that Brown et al.'s design clearly would not result in any such advantage.

Accordingly, as indicated in Applicant's previous Amendment, neither the text nor the drawings of Brown contain any indication of the claimed configuration or even that the claimed configuration was contemplated. Accordingly, Brown et al. does not anticipate or render obvious the claimed subject matter.

Applicant incorporates the arguments previously set forth with respect to the claims dependent from amendment claim 32, such as with respect to the configuration defined by claim 56.

Point 5: The other reference(s) mentioned, but not applied, are not considered to affect the patentability of the referenced claims.

In view of the above remarks, Applicant requests an indication of the allowance of claims 32, 39-41, 50-52 and 54-56.

Conclusions:

Analysis of the cited art in comparison with the pending claims indicates that the claimed combination of elements is neither taught nor suggested by the art of record, taken separately or in combination. The Examiner is respectfully requested to allow the claims and pass the application through to issuance. Should questions arise, the Examiner is respectfully invited to contact the undersigned.

Petition/Request for 2-Month Extension of Time Under 37 CFR §1.136(a)

Pursuant to the provisions of 37 CFR §1.136(a), Applicants respectfully request a 2-month extension of time from May 22, 2005 to July 22, 2005 to respond to the Office Action mailed February 22, 2005.

Fee Payment: This communication constitutes authority to charge the Gesmer Updegrafe Deposit Account Number 122-315 for the fee required by 37 CFR §1.17(a)(2) and any other fees required at this time.

Respectfully submitted,
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Enc. - Copy of relevant portions of on-line version of definition of "rock", The American Heritage® Dictionary of the English Language, Fourth Edition, 2000.

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The American Heritage® Dictionary of the English Language: Fourth Edition. 2000.

rock²**PRONUNCIATION:**  **VERB:** Inflected forms: rocked, rock·ing, rocks**INTRANSITIVE VERB:** 1. To move back and forth or from side to side, especially gently or rhythmically. 2. To move violently, as from a blow or shock. See *synonyms at swing*. 3. To be washed and panned in a cradle or in a rocker. Used of ores. 4. *Music* To play or dance to rock 'n' roll.**TRANSITIVE VERB:** 1. To move back and forth or from side to side, especially in order to soothe or lull to sleep. 2. To cause to shake or sway violently. See *synonyms at agitate*. 3. To disturb the mental or emotional equilibrium of; upset: *News of the scandal rocked the town*. 4. To wash or pan (ores) in a cradle or rocker. 5. In mezzotint engraving, to roughen (a metal plate) with a rocker or roulette.**NOUN:** 1a. A rocking motion. b. The act of rocking. 2. *Music* Rock 'n' roll.**IDIOM:** rock the boat *Slang* To disturb the balance or routine of a situation: *He has an easygoing managerial style and won't rock the boat unless absolutely necessary*.**ETYMOLOGY:** Middle English *rucken*, from Old English *rocian*.**OTHER FORMS:** *rock·ing·ly* —ADVERB

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